

**Notice of Allowability**

Application No.

10/027,450

Examiner

Tekchand Saidha

Applicant(s)

FALCO ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 27 August 2003.
2. ☒ The allowed claim(s) is/are 27-35 and 40.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

***Notice of Allowability***

1. The request filed on 08.27.2003 for a Request for Continued Prosecution (RCE) under 37 CFR 1.114 based on parent Application No. 10/027450 is acceptable and a RCE has been established. An action on the RCE follows.
2. Applicants' amendment filed along with papers for RCE is also acknowledged.
3. Claims 27-35 & 40 are pending and under consideration in this examination.
4. **Claims 27-35 & 40** are allowed.
5. The following is an examiner's statement of reasons for allowance:

This Application provides polynucleotide sequence of SEQ ID NO : 46 encoding 3-isopropylmalate dehydratase of SEQ ID NO : 47 from *Zea mays*. Application further provides vectors, host cells and method of making the enzyme recombinantly. A number of other cDNA clones encoding the enzyme have been identified, exemplified in the instant specification. DNA encoding 3-isopropylmalate dehydratase sequences from soybean, rice and wheat (not prior art) have been shown bearing various degrees of sequence homologies of 28%, 44.7% & 93 % respectively to the claimed sequence of SEQ ID NO : 46 and having the dehydratase activity. Amino acids which are conserved among plants as well as among other species are disclosed in Figures 7A & 7B of the specification.

A comparison of the homologies of the above described sequences , indicates that known sequences of lesser homology than 80% to have 3-isopropylmalate dehydratase activity. Further prior art amino acid sequence of *Rhizopus* 3-isopropylmalate dehydratase [Accession No. P55811, provided previously] shows a

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sequence homology of 14.2% to Applicants' SEQ ID NO : 47. Therefore, based upon the examples provided, the knowledge in the prior art as well as the artisan's skills the claims are enabled.

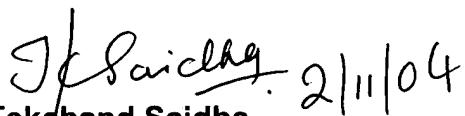
No prior art reference or sequence, however, taken alone or in combination teach the claimed invention or provide motivation to one of ordinary skill in the art to use the skills available in the area of enzymology or molecular biology, to make the invention obvious.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tekchand Saidha (Ph.D.) whose telephone number is (571) 272-0940. The examiner can normally be reached on Monday-Friday from 8:15 am to 4:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy, can be reached at (571) 272-0928. The fax phone number for this Group in the Technology Center is 703 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 571 272-1600.

  
**Tekchand Saidha**  
**Primary Examiner, Art Unit 1652**  
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